

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

DENNIS BALK,

X

Case No. 01 Civ.0612 (JGK)

Plaintiff,

against

NEW YORK INSTITUTE OF TECHNOLOGY and
INFOTEC CORPORATION,

Defendants.

**AFFIDAVIT OF
RANDY M. KORNFELD IN
SUPPORT OF PLAINTIFF'S
APPLICATION FOR A
CERTIFICATE OF
DEFAULT PURSUANT
TO F. R. CIV. P. 55(a) and
LOCAL CIVIL RULE 55.1
CONCERNING INFOTEC
CORPORATION**

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AFFIDAVIT OF RANDY M. KORNFELD

RANDY M. KORNFELD, being duly sworn, deposes and says:

1. I am an attorney admitted to practice before the United District Court for the Eastern District of New York.
2. I represent the plaintiff in the above-referenced action.
3. I submit this affidavit in support of the plaintiff's application for a certificate of default concerning defendant Infotec Corporation ("Infotec") pursuant to F.R.Civ.P. 55(a) and Local Civil Rule 55.1. A form of the certificate of default is annexed as Exhibit "A."
4. This is an action to recover damages caused by defendant Infotec to plaintiff for claims arising out of intentional interference with contract rights.
5. Jurisdiction of the subject matter of this action is proper as to defendant Infotec pursuant to 28 U.S.C. § 1337 and New York Civil Practice Law and Rules §§ 301 and 302(a)(1).

6. Upon information and belief, Infotec is a for-profit corporate entity, incorporated in the Republic of Cyprus, whose president and majority shareholder is Dr. Mohamed Yossry Hussein (“Dr. Hussein”).

7. This action was commenced on February 1, 2011, by the filing of the Summons and Complaint. A copy of the Summons and Complaint was properly served on April 25, 2011, by registered mail, return receipt requested, addressed to the registered agent of Infotec in the Republic of Cyprus, its place of incorporation, by Jean Bollbach, Deputy Clerk of Court for the United States District Court for the Eastern District of New York, as set forth in the Certificate of Service annexed as Exhibit “B.” The Certificate of Service was filed on April 26, 2011.

8. On May 4, 2011, I sent a letter by international registered mail to Dr. Hussein in the care of New York Institute of Technology – Bahrain, P.O. Box 11287, Campus 851, Road 3828, Block 338, Adliya BAHRAIN, (“my May 4 letter”) advising Dr. Hussein that Infotec had been named as a defendant in the above-referenced action and, further, that “[i]n the event that Infotec does not answer or otherwise appear in response to the complaint in the [above-referenced] action, [Plaintiff] fully intends to exercise his right to apply for a default judgment pursuant to Rule 55 of the F.R.Civ.P.” The return receipt postcard confirming delivery of my May 4 letter was stamped by the Bahraini authorities on May 22, 2011. A copy of my May 4 letter and the return receipt postcard confirming deliver of my May 4 letter are annexed as Exhibit “C”.

9. On May 5, 2011, after realizing that this firm had omitted the enclosure to my May 4 letter, namely a copy of the proof of service of the Summons and Complaint in the above-referenced action, Christopher Mikesh, a paralegal working with this firm, sent

a letter by international registered mail to Dr. Hussein (the "May 5 letter"), advising Dr. Hussein this office had omitted the enclosure to my May 4 letter and enclosing a copy of my May 4 letter and the enclosure omitted from my May 4 letter. The return receipt postcard confirming delivery of the May 5 letter was stamped by the Bahraini authorities on May 22, 2011. A copy of the May 5 letter and the return receipt postcard confirming delivery of the May 5 letter are annexed as Exhibit "D".

10. As of the date this affidavit is submitted, forty-nine (49) days from the date service of the Summons and Complaint was effected upon Infotec, Infotec has not answered or otherwise moved, as reflected in the civil docket for the above-referenced case, a copy of which is annexed as Exhibit "E."

11. For the foregoing reasons it is respectfully requested that the Clerk note the default of Infotec in accordance with F.R.Civ.P. 55(a) and Local Civil Rule 55.1 and issue a certificate of default.

Further Affiant sayeth not, this 13th day of June, 2011.



Randy M. Kornfeld

Sworn to before me
this 13th of June, 2011



Notary Public

Christine Edwards
Notary Public, State of New York
No. 01ED6140798
Qualified in Orange County
Certificate Filed in New York Co
Commission Expires 2/13/2014